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OFFICE OF PETITIONS

In re Application of :
Souissi, et al. :
Application No. 09/938,357 :
Filed: August 23, 2001 :
Attorney Docket No. 05118-45 (6507/60484) :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on February 13, 2006, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due, mailed January 14, 2005, which set a period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on April 15, 2005.

Petitioner argues that the Notice of Allowance and Issue Fee Due was sent to an incorrect address for the previous attorney of record. As evidence of the same, an Office date-stamp postcard whereby the Office acknowledged having received a change of correspondence address for the previous attorney on November 12, 2003 accompanied the instant petition. It does not appear that the change of correspondence address for the previous attorney was entered. The record does reflect that the Notice of Allowance and Issue Fee Due was returned to the Office as undeliverable.

Petitioner's argument is noted and is persuasive in many respects, however; petitioner has not established that Mr. Bartels was the attorney of record at the time the Notice of Allowance and Issue Fee Due was sent and that his address was supposed to be the correspondence address of record. Petitioner indicates that the application was transferred from Mr. Bartels' firm to Foley & Lardner, LLP; petitioner does not indicate when this transfer occurred. This is relevant to the disposition of the petition because applicant's are required to provided timely notification of a change of correspondence address and/or change of power of attorney. While it is regrettable that the Office failed to enter the request for change of correspondence address in November 2003, the Notice of Allowance and Issue Fee Due was not mailed until November 14, 2005, and petitioner has not established that the Mr. Bartels' was the attorney of record at that time and that his firm was properly recognized as the correspondence address of record. Petitioner is also advised that although the change of correspondence address filed August 29, 2005, by Foley and Lardner, LLP was entered it does not appear that it should have been because, according to Office records, Foley & Lardner has not been given power of attorney in this application, and had no authority to request a change in the correspondence address.


The renewed petition must establish that Mr. Bartles was the attorney of record on the date the Notice of Allowance and Issue Fee Due was mailed. A statement from a person having first-hand knowledge of this fact may accomplish this. Petitioner must also explain when Foley & Lardner, LLP was given power of attorney over this application and should provide a proper Revocation of Power of Attorney and Appointment of Power of Attorney.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.


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